

United States District Court

for the
Western District of New York

United States of America

v.

Case No. 20-mj-1127

RICHARD LAFRANCE

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between in or about April 2019 and in or about May 2019, in the Western District of New York, the defendant, RICHARD LAFRANCE, did:

- (1) Having a prior conviction under the laws of the State of Oregon related to aggravated sexual abuse, sexual abuse, and abusive sexual conduct of a minor, use, persuade, induce, entice and coerce, and attempt to use, persuade, induce, entice, and coerce a minor, that is, Victim, to engage in sexually explicit conduct for the purpose of producing a visual depiction of such sexually explicit conduct, knowing and having reason to know that such visual depiction was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer; and
- (2) Using facilities and means of interstate and foreign commerce, that is, a cellular telephone and the internet, knowingly persuade, induce, entice, and coerce, and attempt to persuade, induce, entice, and coerce, an individual who had not attained the age of 18 years, that is, Victim, to engage in sexual activity for which any person can be charged with a criminal offense;

all in violation of Title 18, United States Code, Sections 2251(a) and (e), and 2422(b).

This Criminal Complaint is based on these facts:

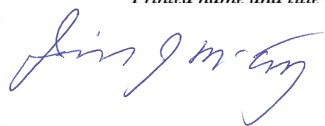
☒ Continued on the attached sheet.

Sworn to before me and signed telephonically.

Date: August 19, 2020

City and State: Buffalo, New York


Complainant's signature
Jeffrey A. Homza, Special Agent, FBI
Printed name and title


Judge's signature
HON. JEREMIAH J. MCCARTHY
UNITED STATES MAGISTRATE JUDGE
Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

I, JEFFREY A. HOMZA, being duly sworn, depose and state the following:

1. I am a Special Agent with the Federal Bureau of Investigation and entered on duty in 2019. I am currently assigned to the Buffalo Division, Jamestown Resident Agency. I have participated in investigations of persons suspected of violating federal criminal laws, including Title 18, United States Code, Sections 2422 involving the coercion and enticement of children to engage in unlawful sexual activity and 2251(a) involving the production of child pornography. Through training and participation in investigations related to federal child pornography laws, I have become familiar with the manner in which computers are used as the means for receiving, transmitting, and storing child pornography.

2. I make this affidavit in support of a criminal complaint charging that RICHARD LAFRANCE ("LAFRANCE") did use a means of interstate commerce, the Internet, to knowingly persuade, induce, entice, or coerce an Individual who has not yet attained the age of eighteen years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempted to do so, in violation of Title 18, United States Code, Section 2422(b), and, having a prior conviction under the laws of the State of Oregon related to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor, did persuade, induce, or entice a minor to engage in sexually explicit

conduct for the purpose of producing any visual depiction of such conduct, or attempted to do so, in violation of Title 18, United States Code, Sections 2251(a) and (e).

3. The statements contained in this affidavit are based on my involvement in this investigation, as well as information provided to me by other law enforcement officers involved in this investigation, and upon my training and experience. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that LAFRANCE did knowingly violate Title 18, United States Code, Sections 2422(b) and 2251(a) and (e).

II. DETAILS OF THE INVESTIGATION

4. RICHARD LAFRANCE, date of birth December 30, 1985, is a Level III registered sex offender currently incarcerated in Chautauqua County Jail in Mayville, New York within the Western District of New York. LAFRANCE's placement on the New York Sex Offender Registry is a result of a 2005 arrest and conviction in the State of Oregon involving LAFRANCE engaging in sexual intercourse with at least two thirteen year old females when he was nineteen. At all times referenced in the instant affidavit, LAFRANCE was on parole supervision.

5. On or about May 10, 2019, the Chautauqua County Sheriff's Office received a complaint that LAFRANCE may have engaged in unlawful sexual activity with a fourteen-year-old female (VICTIM). Specifically, VICTIM's mother reported that she had located an

Apple iPhone inside VICTIM's backpack. VICTIM's mother asked VICTIM who had given the iPhone to VICTIM, as VICTIM's mother had not provided the device. VICTIM told VICTIM's mother that LAFRANCE had given her the iPhone. VICTIM is familiar with LAFRANCE because LAFRANCE was dating VICTIM's aunt.

6. VICTIM's mother reviewed the contents of the iPhone and did not observe anything of immediate interest. VICTIM's mother then reviewed the contents of VICTIM's school district-issued Apple iPad and observed a large volume of email messages that were exchanged between VICTIM's school district-issued email address and an individual using the name "Anthony Ramos". VICTIM told VICTIM's mother that the individual using the name "Anthony Ramos" was actually LAFRANCE.

7. The referenced iPad is the property of the Silver Creek School District. VICTIM's mother advised the school district of the presence of the referenced emails on the iPad. Silver Creek Middle School Principal Eleanor Payne reviewed the contents of the iPad and observed highly sexualized email conversations between VICTIM's school-issued email address and an individual using the name "Anthony Ramos," with an email address that included the term "burryme". Payne specifically recalled a conversation during which VICTIM stated she was "on her period" to which "Anthony Ramos" replied "That's OK. I can put it in your mouth or in your ass". Payne further recalled a conversation between the same parties in which "Anthony Ramos" suggested "We can go to our secret spot and do it in the car".

8. In view of the above, the Chautauqua County Sheriff's Office (CCSO) sought and obtained a search warrant to examine the contents of VICTIM's school-issued iPad. Pursuant to the execution of the referenced search warrant, the CCSO obtained a large amount of highly sexual email conversations between VICTIM's school district-issued email address and individuals using the names "Rick Lafrance", email address slickdynasty@icloud.com, and "Anthony Ramos", email address burrymestanding@yahoo.com. Excerpts of the referenced email conversations are detailed below.

9. According to an administrative subpoena served on Yahoo, the email address burrymestanding@yahoo.com was created on or about April 16, 2019 by an individual identified as "Anthony Ramos" using the telephone number (716) 969-4268. According to a query of the referenced telephone number conducted using the CPClear database, the telephone number is associated with LAFRANCE.

10. On or about May 22, 2019, VICTIM was interviewed by CCSO. VICTIM stated that shortly after she met LAFRANCE, he asked VICTIM if she had any social media accounts. VICTIM told LAFRANCE she did not have social media but did provide LAFRANCE with her school district-issued email address. According to VICTIM, LAFRANCE began sending her emails using his true name but later began using the name "Anthony Ramos".

11. VICTIM disclosed to CCSO Investigators that LAFRANCE later took VICTIM and other children to a park in Chautauqua County, New York to go fishing. VICTIM disclosed that during the fishing trip, she and LAFRANCE engaged in oral, vaginal, and anal intercourse. The following is an excerpt of a conversation between VICTIM's school district-issued email address (V) and "Rick Lafrance" using email address "slickdynasty@icloud.com (RLF):

April 14, 2019

RLF: Have fun fishing yesterday

V: love u

RLF: You better delete these or at least most of them after you read them

April 15, 2019

V: can wait to see u Friday

RLF: (picture of cartoon lips)

V: its taking to long

RLF: what is taking to long

V: the bad stuff is coming

RLF: what bad stuff is coming

RLF: how are we going to have bad stuff between us

V: remember fishing

RLF: Ive been doing the same thing

12. VICTIM further disclosed that a few weeks after the referenced fishing trip, LAFRANCE and VICTIM had a conversation via email that led to LAFRANCE stating he

was going to pick up VICTIM from her home. VICTIM disclosed that LAFRANCE did pick her up from her residence in the early morning hours and the two drove to a “secret spot” in the Town of Sheridan, New York where LAFRANCE and VICTIM engaged in sexual intercourse.

13. The following is an excerpt of a conversation between VICTIM’s school district-issued email address (V) and “Anthony Ramos” using email address “burrymestanding@yahoo.com (AR):

May 2, 2019

V: are u horny

AR: yes and all I want is you im thinking about coming out there and getting you

V: do u knw where I live

V: and babe you cant cause my grandma is downstairs sleeping and the door creaks

AR: whats the address ill start heading out there right now

...

AR: do you have baby oil

V: nope none

AR: you want me to come over there at 4

AR: I don’t think that’s possible

V: all you have to do is text me and say ur on ur way

AR: olive oil vegetable oil

V: have none used the rest of them today

...

V: but I have to be in shower before 6

AR: be there at 4

AR: ok two hours of alone time with you is better then no time

V: but cant do the nasty cause im still on my thingy

V: yeah but we would have to go around the block tho

AR: I don't know if ill be able to control myself

V: why

AR: to where

AR: because I want you so dame bad

V: around the block where that little open spot is remember where you want to go

V: okay where are there other places to put it then

AR: your ass and mouth right

V: oh not in my ass im on my period and it travels there but my mouth dame right

V: half to make me gag

...

V: ummmm baby ur making me so fucking wet right now

AR: and I could be out there by now. Yes I would

...

V: babe im going to head to bed and I will see u in a couple hrs I love u very fucking much

AR: I would hold you all night

AR: ok goodnight beautiful I love you and will see you in a couple of hours

May 3, 2019

AR: hello good morning beautiful

V: sry wasn't up forgot to set my alarm

AR: want me to come up and stop by for a few min before I have to go to work

V: yeah where are you now

AR: in cassadaga

V: okay come and see me

AR: ill be there in a couple minutes

...

AR: im on your street right down the road

V: keep coming im standing right here

AR: im parked right out by Dana street

14. Your affiant reviewed multiple email conversations that seem to indicate that LAFRANCE and VICTIM have engaged in sexual intercourse on multiple occasions. The following are excerpts to that effect:

April 27, 2019

V: BABE your going to be a dad

V: send me a picture of your face pllz after u look at this (sends picture of positive pregnancy test)

April 29, 2019

V: babe have u fucked leeann or heather since me and u got together and please tell me

AR: I havent been sleeping with leeann as much as I used to tho

V: babe im fucking shaking like fucking crazy
AR: why are you shaking are you pissed at me
V: who would u rather take me or them
AR: you with out a doubt
V: might be prego but absolutely fucking miserable
AR: why are you miserable if you are pregnant I would be so happy

15. Your affiant observed a known image of LAFRANCE on the web page of the New York State Sex Offender Registry. As such, your affiant is familiar with LAFRANCE's physical appearance. On or about May 1, 2019, at approximately 10:15pm, the Individual using the name "Anthony Ramos" sent a "selfie" to VICTIM. The Individual depicted in the image appears to be LAFRANCE.

16. The CCSO sought and obtained a search warrant to examine the contents of the iPhone provided to VICTIM by LAFRANCE as referenced above. CCSO did search the referenced device and observed that Apple iCloud account "burryme313@icloud.com" which was created on approximately April 21, 2019 served as the primary cloud storage location for the device. As such, CCSO Investigators sought and obtained a search warrant for iCloud account burryme313@icloud.com.

17. Your affiant did review the contents of burryme313@icloud.com which is the cloud storage location for the iPhone device provided to VICTIM by LAFRANCE and made

several observations to include the devices contacts. Two of the contacts identified on the device are:

- Rick LaFrance, (716) 969-4268 (the number used to establish burrymestanding@yahoo.com)
- Babe, (541) 634-2239 (contact contained an image of LaFrance; area code 541 is assigned to an area in the State of Oregon. As referenced above, LaFrance was convicted of a prior sex offense in the State of Oregon.)

18. Your affiant also observed the image files contained in account burryme313@icloud.com and observed several highly sexual images that appear to depict VICTIM engaging in a lascivious display of her genitals.

19. Your affiant observed multiple chats conducted using the mobile application TextNow contained in account burryme313@icloud.com. One of which is a brief chat conversation between burryme313@icloud.com and the contact “Rick LaFrance” (RLF) as referenced in paragraph 17. An excerpt is as follows:

April 24, 2019

RLF: Text this number 541-634-2239

20. As referenced above, the telephone number 541-634-2239 is a number assigned to the State of Oregon and associated with the contact identified as “babe”.

21. Your affiant observed a chat, again utilizing TextNow, between burryme313@icloud.com (BM3) and the contact identified as “babe”. The following are excerpts of the referenced chats. It should be noted that the chats referenced involving “babe” using telephone number 541-634-2239 began approximately twenty minutes after the chat referenced above in which VICTIM is told to text the number provided by the contact “Rick LaFrance”:

April 24, 2019

BM3: hey baby

BM3: did u make it home

BM3: (unknown image)

BM3: (unknown image)

BM3: (unknown image)

BM3: (image of three hearts)

Babe: Yes I did what are you doing?

...

BM3: Are U still going to up at 10

Babe: I'll come and get you

BM3: when

Babe: I'll leave right now so in like 20 to 30 min

Babe: How does that sound

...

May 6, 2019

Babe: Hello what are you up to

BM3: not much

Babe: I might as you already

BM3: what

Babe: Did you turn the ringer off

Babe: I miss you already

BM3: me too and yeah

Babe: Now you can send me some really sexy pics

BM3: (unknown image)

BM3: I love u baby

Babe: Um yeah I could kiss you all over

BM3: Oh yeah baby

...

BM3: send me a pic

Babe: of what

BM3: ur dick

BM3: if it hard

Babe: You send me some of you to

BM3: Okay I will

Babe: (unknown image)

BM3: ummm baby

Babe: all for you

BM3: (unknown image)

Babe: ummmm yeah very sexy

BM3: There a lot of work

BM3: What would you do right now if u were here

Babe: Show me more

Babe: I would take your top off and kiss my way down your neck

BM3: (unknown image)

Babe: till I got to your tits and licked and nibbled on them till you were squirming underneath me

BM3: umm

BM3: (unknown image)

BM3: (unknown image)

BM3: (unknown image)

Babe: now what would you do

Babe: spread it open for me

BM3: how u like that

Babe: (unknown image)

Babe: I like it that much

22. As stated above, the image files contained in account burryme313@icloud.com included several highly sexual images that appear to depict VICTIM engaging in a lascivious display of her genitals. The file path for the referenced images include the term “tinginteractive.usms” According to open source research, mobile applications are assigned a unique identifier known as a package name. The package name for the mobile texting and calling app “TextNow” is “tinginteractive.usms”. As such, it is

reasonable to believe that the referenced images were produced and transmitted using the TextNow application.


23. At some point during her use of the iPhone provided by LAFRANCE, LAFRANCE asked VICTIM to send him a video of her masturbating. In reviewing the videos saved on the iPhone, VICTIM discovered two videos of LAFRANCE having sex with VICTIM. The first video was of VICTIM and LAFRANCE having sex during the fishing trip discussed above. The second video was of VICTIM and LAFRANCE having sex at the “secret spot”. VICTIM was unaware that LAFRANCE had recorded these encounters and deleted them from the phone.

24. Based on my knowledge, experience, and research, the Apple iPhone is manufactured outside of the United States, with the largest manufacturers being located in China.

25. As stated above, LAFRANCE and VICTIM met in person on several occasions. VICTIM further provided LAFRANCE with an email address assigned to a K-12 school district. It thus appears reasonable that LAFRANCE was aware that VICTIM was under the age of 18.

26. WHEREFORE, based on the foregoing, I respectfully submit that there is probable cause to believe that between in or about April 2019 and in or about May 2019, in the Western District of New York, the defendant did use a means of interstate commerce, the


Internet, to knowingly persuade, induce, entice, or coerce an Individual who has not yet attained the age of 18 years, to engage in sexual activity for which any person can be charged with a criminal offense, or attempted to do so, in violation of Title 18, United States Code, Section 2422(b) and did persuade, induce, or entice a minor to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct, or attempted to do so, in violation of Title 18, United States Code, Sections 2251(a) and (e).



JEFFREY A. HOMZA
Special Agent
Federal Bureau of Investigation

Sworn and subscribed to before me telephonically

this 19th day of August 2020.



HON. JEREMIAH J. MCCARTHY
United States Magistrate Judge